

§ 648.60 Sea scallop access area program requirements.

(a) A limited access scallop vessel may only fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, when fishing under a scallop DAS, provided the vessel complies with the requirements specified in paragraphs (a)(1) through (a)(9), and (b) through (f) of this section. An LAGC scallop vessel may fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, provided the vessel complies with the requirements specified in paragraph (g) of this section.

(1) VMS. Each vessel participating in the Sea Scallop Access Area Program must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10, and paragraph (e) of this section.

(2) Vessels participating in the Sea Scallop Access Area Program must comply with the trip declaration requirements specified in § 648.10(f) and vessel notification requirements specified in § 648.11(g) for observer deployment.

(3) *Number of Sea Scallop Access Area trips*—(i) *Limited access vessel trips.* (A) Except as provided in paragraph (c) of this section, paragraphs (a)(3)(i)(B) through (E) of this section specify the total number of trips that a limited access scallop vessel may take into Sea Scallop Access Areas during applicable seasons specified in § 648.59. The number of trips per vessel in any one Sea Scallop Access Area may not exceed the maximum number of trips allocated for such Sea Scallop Access Area as specified in § 648.59, unless the vessel owner has exchanged a trip with another vessel owner for an additional Sea Scallop Access Area trip, as specified in paragraph (a)(3)(ii) of this section, or has been allocated a compensation trip pursuant to paragraph (c) of this section. No access area trips are allocated for fishing year 2014.

(B) *Full-time scallop vessels.* In fishing year 2013, each full-time vessel shall have a total of two access area trips in two of the following areas: Hudson Canyon Access Area, Closed Area I Access Area, Closed Area II Access Area,

and Nantucket Lightship Access Area. These allocations shall be determined by the Regional Administrator through a random assignment and shall be made publically available on the NMFS Northeast Region Web site prior to the start of the 2013 fishing year. If, prior to the implementation of Framework 24, a full-time vessel lands more scallops from the Hudson Canyon Access Area than ultimately allocated for fishing year 2013, that vessel is not eligible to take any additional access area trips in fishing year 2013 and NMFS shall deduct 12 open area DAS in fishing year 2013 from that vessel's allocation.

(C) *Part-time scallop vessels.* (1) For the 2013 fishing year, a part-time scallop vessel is allocated two trips that may be distributed between access areas as follows: One trip in the Closed Area I Access Area and one trip in the Closed Area II Access Area; one trip in the Closed Area I Access Area and one trip in the Hudson Canyon Access Area; one trip in the Closed Area I Access Area and one trip in the Nantucket Lightship Access Area; one trip in the Closed Area II Access Area and one trip in the Hudson Canyon Access Area; one trip in the Closed Area II Access Area and one trip in the Nantucket Lightship Access Area; or one trip in the Hudson Canyon Access Area and one trip in the Nantucket Lightship Access Area.

(i) If, prior to the implementation of Framework 24, a part-time vessel lands more scallops from the Hudson Canyon Access Area than ultimately allocated for fishing year 2013, NMFS shall deduct five open area DAS in fishing year 2013 from that vessel's allocation.

(ii) [Reserved]

(2) For the 2014 fishing year, part-time scallop vessels shall not receive access area trip allocations.

(D) *Occasional scallop vessels.* For the 2013 fishing year, an occasional scallop vessel may take one trip in the Closed Area I Access Area, or one trip in the Closed Area II Access Area, or one trip in the Nantucket Lightship Access Area, or one trip in the Hudson Canyon Access Area. If, prior to the implementation of Framework 24, an occasional vessel lands more scallops from the

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Hudson Canyon Access Area than ultimately allocated for fishing year 2013, NMFS shall deduct one open area DAS in fishing year 2013 from that vessel's allocation.

(ii) *One-for-one area access trip exchanges.* If the total number of trips allocated to a vessel into all Sea Scallop Access Areas combined is more than one, the owner of a vessel issued a limited access scallop permit may exchange, on a one-for-one basis, unutilized trips into one access area for another vessel's unutilized trips into another Sea Scallop Access Area. One-for-one exchanges may be made only between vessels with the same permit category. For example, a full-time vessel may not exchange trips with a part-time vessel, and vice versa. Vessel owners must request the exchange of trips by submitting a completed Trip Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Trip exchange forms are available from the Regional Administrator upon request. Each vessel owner involved in an exchange is required to submit a completed Trip Exchange Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has unutilized trips remaining to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from the Regional Administrator that the trip exchange has been made effective. A vessel owner may exchange trips between two or more vessels under his/her ownership. A vessel

owner holding a Confirmation of Permit History is not eligible to exchange trips between another vessel and the vessel for which a Confirmation of Permit History has been issued.

(A)—(B) [Reserved]

(iii) [Reserved]

(4) *Area fished.* While on a Sea Scallop Access Area trip, a vessel may not fish for, possess, or land scallops in or from areas outside the Sea Scallop Access Area in which the vessel operator has declared the vessel will fish during that trip, and may not enter or exit the specific declared Sea Scallop Access Area more than once per trip. A vessel on a Sea Scallop Access Area trip may not enter or be in another Sea Scallop Access Area on the same trip except such vessel may transit another Sea Scallop Access Area provided its gear is stowed in accordance with § 648.23(b).

(i)—(ii) [Reserved]

(5) *Possession and landing limits—(i) Scallop possession limits.* Unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of this section, after declaring a trip into a Sea Scallop Access Area, a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, scallops, up to the maximum amounts specified in the table in this paragraph (a)(5). No vessel declared into the Access Areas as described in § 648.59(a) through (e) may possess more than 50 bu (17.62 hL) of in-shell scallops outside of the Access Areas described in § 648.59(a) through (e).

Fishing year	Permit category possession limit		
	Full-time	Part-time	Occasional
2013	13,000 lb (5,897 kg)	10,400 lb (4,717 kg)	2,080 lb (943 kg).

(ii) *NE multispecies possession limits and yellowtail flounder TACs.* A limited access scallop vessel that is declared into a trip and fishing within the Sea Scallop Access Areas described in § 648.59(b) through (d), and issued a valid NE multispecies permit as specified in § 648.4(a)(1), may fish for, possess, and land, per trip, up to a maximum of 1,000 lb (453.6 kg) of all NE multispecies combined, excluding yellowtail flounder, subject to the min-

imum commercial fish size restrictions specified in § 648.83(a)(1), and the additional restrictions for Atlantic cod, haddock, and yellowtail flounder specified in paragraphs (a)(5)(ii)(A) through (C) of this section. Such vessel is subject to the seasonal restriction established under the Sea Scallop Area Access Program and specified in § 648.59(b)(4), (c)(4), and (d)(4).

(A) *Atlantic cod.* Such vessel may bring onboard and possess only up to

100 lb (45.4 kg) of Atlantic cod per trip, provided such fish is intended for personal use only and cannot be not sold, traded, or bartered.

(B) *Haddock*. Such vessels may possess and land haddock up to the overall possession limit of all NE multispecies combined, as specified in paragraph (a)(5)(ii) of this section, except that such vessels are prohibited from possessing or landing haddock from January 1 through June 30.

(C) *Yellowtail flounder*. Such vessel must retain all yellowtail flounder that meet the minimum size restrictions specified under § 648.83(a)(1).

(1) [Reserved]

(2) *U.S./Canada Area TAC availability*. After declaring a trip into and fishing in the Closed Area I or Closed Area II Access Area described in § 648.59(b) and (c), a scallop vessel that has a valid NE multispecies permit, as specified in § 648.4(a)(1), may possess and land yellowtail flounder, provided that the Regional Administrator has not issued a notice that the U.S./Canada yellowtail flounder TAC specified in § 648.85(a)(2) has been harvested. If the yellowtail flounder TAC established for the U.S./Canada Management Area pursuant to § 648.85(a)(2) has been or is projected to be harvested, as described in § 648.85(a)(3)(iv)(C)(3), scallop vessels are prohibited from possessing or landing yellowtail flounder in or from the Closed Area I and Closed Area II Access Areas.

(3) [Reserved]

(iii)–(iv) [Reserved]

(6) *Gear restrictions*. (i) The minimum ring size for dredge gear used by a vessel fishing on a Sea Scallop Access Area trip is 4 inches (10.2 cm) in diameter. Dredge or trawl gear used by a vessel fishing on a Sea Scallop Access Area trip must be in accordance with the restrictions specified in § 648.51(a) and (b).

(ii) Vessels fishing in the Closed Area I, Closed Area II, and Nantucket Lightship Closed Area Sea Scallop Access Areas described in § 648.59(b) through (d) are prohibited from fishing with trawl gear as specified in § 648.51(f)(1).

(7) *Transiting*. While outside a Sea Scallop Access Area on a Sea Scallop Access Area trip, the vessel must have

all fishing gear stowed in accordance with § 648.23(b), unless there is a compelling safety reason to be transiting the area without gear stowed.

(8) *Off-loading restrictions*. The vessel may not offload its catch from a Sea Scallop Access Area trip at more than one location per trip.

(9) *Reporting*. The owner or operator must submit reports through the VMS, as specified in § 648.10(f)(4)(i).

(b) [Reserved]

(c) *Compensation for Sea Scallop Access Area trips terminated early*. If a Sea Scallop Access Area trip is terminated before catching the allowed possession limit, the vessel may be authorized to fish an additional trip in the same Sea Scallop Access Area based on the following conditions and requirements.

(1) The vessel owner/operator has determined that the Sea Scallop Access Area trip should be terminated early for reasons deemed appropriate by the operator of the vessel;

(2) The amount of scallops landed by the vessel for the trip must be less than the maximum possession limit specified in paragraph (a)(5) of this section;

(3) The vessel owner/operator must report the termination of the trip prior to entering the access area if the trip is terminated while transiting to the area, or prior to leaving the Sea Scallop Access Area if the trip is terminated after entering the access area, by VMS e-mail messaging, with the following information: Vessel name, vessel owner, vessel operator, time of trip termination, reason for terminating the trip (for NMFS recordkeeping purposes), expected date and time of return to port, and amount of scallops on board in pounds;

(4) The vessel owners/operator must request that the Regional Administrator authorize an additional trip as compensation for the terminated trip by submitting a written request to the Regional Administrator within 30 days of the vessel's return to port from the terminated trip; and

(5) The Regional Administrator shall authorize the vessel to take an additional trip and shall specify the amount of scallops that the vessel may land on such trip pursuant to the calculation specified in paragraph (c)(5)(i)

of this section. Such authorization shall be made within 10 days of receipt of the formal written request for compensation.

(i) The amount of scallops that can be landed on an authorized additional compensation Sea Scallop Access Area trip shall equal the possession limit specified in paragraph (a)(5) of this section minus the amount of scallops landed on the terminated trip. For example, if the possession limit for a full-time vessel is 18,000 lb (8,165 kg) per trip, and the vessel lands 6,500 lb (2,948.4 kg) of scallops and requests compensation for the terminated trip, the possession limit for the additional trip is 11,500 lb (5,216.3 kg) or 18,000 lb (8,165 kg) minus 6,500 lb (2,948.4 kg)).

(ii) If a vessel is authorized more than one additional compensation trip into any Sea Scallop Access Area as the result of more than one terminated trip in the same Access Area, the possession limits for the authorized trips may be combined, provided the total possession limit on a combined additional compensation trip does not exceed the possession limit for a trip as specified in paragraph (a)(5) of this section. For example, a vessel that has two broken trips with corresponding additional compensation trip authorizations of 10,000 lb (4,536 kg) and 8,000 lb (3,629 kg) may combine the authorizations to allow one compensation trip with a possession limit of 18,000 lb (8,165 kg).

(A)—(B) [Reserved]

(iii) A vessel operator must comply with all notification requirements prior to taking an additional compensation trip, and for each such trip, must enter a trip identification number by entering the number in the VMS for each such trip. The trip identification number will be included in the Regional Administrator's authorization for each additional compensation trip. If a vessel operator is combining additional compensation trips, the trip identification numbers from each authorization must be entered into VMS.

(iv) [Reserved]

(v) *Additional compensation trip carry-over.* If an Access Area trip conducted during the last 60 days of the open period or season for the Access Area is terminated before catching the allowed

possession limit, and the requirements of paragraph (c) of this section are met, the vessel operator shall be authorized to fish an additional trip as compensation for the terminated trip in the following fishing year. The vessel owner/operator must take such additional compensation trips, complying with the trip notification procedures specified in paragraph (a)(2)(iii) of this section, within the first 60 days of that fishing year the Access Area first opens in the subsequent fishing year. For example, a vessel that terminates an Delmarva Access Area trip on December 29, 2011, must declare that it is beginning its additional compensation trip during the first 60 days that the Delmarva Access Area is open (March 1, 2012, through April 29, 2012). If an Access Area is not open in the subsequent fishing year, then the additional compensation trip authorization would expire at the end of the Access Area Season in which the trip was broken. For example, a vessel that terminates a Closed Area I trip on December 10, 2012, may not carry its additional compensation trip into the 2013 fishing year because Closed Area I is not open during the 2013 fishing year, and must complete any compensation trip by January 31, 2013.

(d) *Increase in possession limit to defray costs of observers*—The Regional Administrator may increase the sea scallop possession limit specified in paragraph (a)(5) of this section to defray costs of at-sea observers deployed on area access trips subject to the limits specified § 648.53(g). An owner of a scallop vessel shall be notified of the increase in the possession limit through a permit holder letter issued by the Regional Administrator. If the observer set-aside is fully utilized prior to the end of the fishing year, the Regional Administrator shall notify owners of scallop vessels that, effective on a specified date, the increase in the possession limit is no longer available to offset the cost of observers. Unless otherwise notified by the Regional Administrator, vessel owners shall be responsible for paying the cost of the observer, regardless of whether the vessel lands or sells sea scallops on that trip, and regardless of the availability of

set-aside for an increased possession limit.

(e) *Sea Scallop Research Set-Aside Harvest in Access Areas*—(1) *Access Areas available for harvest of research set-aside (RSA)*. RSA may be harvested in any access area that is open in a given fishing year, as specified through a framework adjustment and pursuant to § 648.56. The amount of pounds that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process. The access areas open for RSA harvest for fishing years 2013 and 2014 are:

(i) *2013*: Hudson Canyon Access Area, Nantucket Lightship Access Area, Closed Area I Access Area, and Closed Area II Access Area.

(ii) *2014*: None.

(2) *Increase of possession limit to defray the costs of sea scallop research*. The Regional Administrator may increase the sea scallop possession limit specified in paragraph (a)(5) of this section or allow additional trips into a Sea Scallop Access Area to defray costs for approved sea scallop research up to the amount specified in paragraph (e)(1) of this section.

(3) [Reserved]

(f) *VMS polling*. For the duration of the Sea Scallop Area Access Program, as described in this section, all sea scallop vessels equipped with a VMS unit shall be polled at a minimum of twice per hour, regardless of whether the vessel is enrolled in the Sea Scallop Area Access Program. Vessel owners shall be responsible for paying the costs of polling twice per hour.

(g) *Limited Access General Category Vessels*. (1) An LAGC scallop vessel may only fish in the scallop access areas specified in § 648.59(a) through (e), subject to the seasonal restrictions specified in § 648.59(b)(4), (c)(4), and (d)(4), and subject to the possession limit specified in § 648.52(a), and provided the vessel complies with the requirements specified in paragraphs (a)(1), (a)(2), (a)(6) through (9), (d), (e), (f), and (g) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may fish in an approved SAP under § 648.85 and under multispecies DAS in the Closed Area I, Closed

Area II, and Nantucket Lightship Sea Scallop Access Areas specified in § 648.59(b) through (d), provided the vessel complies with the requirements specified in § 648.59(b)(5)(ii), (c)(5)(ii), and (d)(5)(ii), and this paragraph (g), but may not fish for, possess, or land scallops on such trips

(2) *Limited Access General Category Gear restrictions*. An LAGC IFQ scallop vessel authorized to fish in the Access Areas specified in § 648.59(a) through (e) must fish with dredge gear only. The combined dredge width in use by, or in possession on board of, an LAGC scallop vessel fishing in Closed Area I, Closed Area II, and Nantucket Lightship Access Areas may not exceed 10.5 ft (3.2 m). The combined dredge width in use by, or in possession on board of, an LAGC scallop vessel fishing in the remaining Access Areas described in § 648.59 may not exceed 31 ft (9.4 m). Dredge width is measured at the widest point in the bail of the dredge.

(3) *LAGC IFQ Access Area Trips*. An LAGC scallop vessel authorized to fish in the Access Areas specified in § 648.59(a) through (e) may land scallops, subject to the possession limit specified in § 648.52(a), unless the Regional Administrator has issued a notice that the number of LAGC IFQ access area trips specified in § 648.59(a)(3)(ii), (b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and (e)(4)(ii) have been or are projected to be taken. Upon a determination from the Regional Administrator that the total number of LAGC IFQ trips in a specified Access Area have been or are projected to be taken, the Regional Administrator shall publish notification of this determination in the FEDERAL REGISTER, in accordance with the Administrative Procedure Act. Once this determination has been made, an LAGC IFQ scallop vessel may not fish for, possess, or land scallops in or from the specified Access Area after the effective date of the notification published in the FEDERAL REGISTER.

(4) *Possession Limits*—(i) *Scallops*. A vessel issued a NE multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS, and that has not enrolled in the LAGC

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Access Area fishery, is prohibited from possessing scallops. An LAGC scallop vessel authorized to fish in the Access Areas specified in § 648.59(a) through (e) may possess scallops up to the possession limit specified in § 648.52(a).

(ii) *Other species.* Unless issued an LAGC scallop permit and fishing under an approved NE multispecies SAP under NE multispecies DAS, an LAGC IFQ vessel fishing in the Access Areas specified in § 648.59(b) through (d) is prohibited from possessing any species of fish other than scallops and monkfish, as specified in § 648.94(c)(8)(i).

(5) *Number of trips.* An LAGC IFQ scallop vessel may not fish for, possess, or land scallops in or from the Access Areas specified in § 648.59(a) through (e) after the effective date of the notification published in the FEDERAL REGISTER, stating that the total number of trips specified in § 648.59(a)(3)(ii), (b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and (e)(4)(ii) have been, or are projected to be, taken by LAGC IFQ scallop vessels.

[71 FR 33231, June 8, 2006, as amended at 72 FR 32559, June 13, 2007; 72 FR 72629, Dec. 21, 2007; 73 FR 20130, Apr. 14, 2008; 73 FR 30810, May 29, 2008; 74 FR 20555, May 4, 2009; 75 FR 18371, Apr. 9, 2010; 75 FR 36574, June 28, 2010; 75 FR 63723, Oct. 18, 2010; 76 FR 43769, 43795, July 21, 2011; 77 FR 26122, May 2, 2012; 77 FR 20741, Apr. 6, 2012; 78 FR 27107, May 9, 2013]

§ 648.61 EFH closed areas.

(a) No vessel fishing for scallops, or person on a vessel fishing for scallops, may enter, fish in, or be in the EFH Closure Areas described in paragraphs (a)(1) through (6) of this section, unless otherwise specified. A chart depicting these areas is available from the Regional Administrator upon request.

(1) *Western GOM Habitat Closure Area.* The restrictions specified in this paragraph (a) apply to the Western GOM Habitat Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

WESTERN GOM HABITAT CLOSURE AREA

Point	N. lat.	W. long.
WGM1	43°15'	70°15'
WGM2	42°15'	70°15'
WGM3	42°15'	70°00'
WGM4	43°15'	70°00'

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WESTERN GOM HABITAT CLOSURE AREA— Continued

Point	N. lat.	W. long.
WGM1	43°15'	70°15'

(2) *Cashes Ledge Habitat Closure Area.* The restrictions specified in paragraph (a) of this section apply to the Cashes Ledge Habitat Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

CASHES LEDGE HABITAT CLOSURE AREA

Point	N. lat.	W. long.
CLH1	43°01'	69°03'
CLH2	43°01'	68°52'
CLH3	42°45'	68°52'
CLH4	42°45'	69°03'
CLH1	43°01'	69°03'

(3) *Jeffrey's Bank Habitat Closure Area.* The restrictions specified in paragraph (a) of this section apply to the Jeffrey's Bank Habitat Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

JEFFREY'S BANK HABITAT CLOSURE AREA

Point	N. lat.	W. long.
JB1	43°40'	68°50'
JB2	43°40'	68°40'
JB3	43°20'	68°40'
JB4	43°20'	68°50'
JB1	43°40'	68°50'

(4) *Closed Area I Habitat Closure Areas.* The restrictions specified in paragraph (a) of this section apply to the Closed Area I Habitat Closure Areas, Closed Area I-North and Closed Area I-South, which are the areas bounded by straight lines connecting the following points in the order stated, and so that the line connecting points CI1 and CIH1, and CI2 and CIH3 is the same as the portion of the western boundary line of Closed Area I, defined in § 648.81(a)(1), that lies between those points:

CLOSED AREA I—NORTH HABITAT CLOSURE AREA

Point	N. lat.	W. long.
CI1	41°30'	69°23'
CI4	41°30'	68°30'
CIH1	41°26'	68°30'